

No. 1160/1L/NGL.—Whereas the Governor of Haryana is satisfied that the land specified below is needed urgently by the Government, at public expense, for a public purpose, namely, for the land proposed to be acquired for the Construction of Dhurali Minor R.D. 0 K.M. to R.D. 7-350 Off Take R.D. 9-427 K.M. of Kanwala Distributary in village Dhurkra, Balana, Dhorala, Rawalan, Anandpur Jalbera, Dhorali, Yaqubpur and Mirzapur in tehsil Ambala, district Ambala for which Notification has been issued under Sub-section (4) of Section 17 read with clause (c) of Sub-section (17) of the said Act and published,—*vide* Haryana Government Notification No. 1159/1L/NGL, dated 20th January, 1977. In *Haryana Government Gazette, Part I*, it is hereby declared that the Land described in the specification below is required urgently for the above purpose.

The declaration is made under the provisions of section 6 of the Land Acquisition Act, 1894, for the information of all to whom it may concern .

The Plans of the land may be inspected in the offices of the Land Acquisition Collector, Public Works, Department, Irrigation Branch, Ambala and the Executive Engineer, Sutlej Yamuna Link Division No. I, Model Town, Ambala.

#### SPECIFICATION

District	Tehsil	Village	Habdist No.	Area in acres	Locality
A strip of land measuring 24114.20 feet in length and Varying in Widths lying Generally in the direction from West-North to East-South as demarcated at site and shown on the index Plan falling in field Nos. as per details below :					
					Rectangle No.
					Field Nos.
Ambala	Ambala	Dhurkra	118	6.24	35 20, 21, 22 50 1, 2, 3, 8, 9, 13, 14, 7, 15, 16, 17, 25 49 20, 21, 22 55 1, 2, 3, 7, 8, 9, 13, 14, 15, 16, 17, 25 56 20, 21, 22 63 1, 2, 3, 7, 8, 9, 13, 14, 15, 16, 17, 25 62 20, 21, 22 69 1, 2, 3, 8, 9, 7, 13, 14, 15, 16, 17, 125, 74, 75, 76, 102, 104, 121
Ambala	Ambala	Balana	173	1.64	39 16, 15, 14 38 11, 20, 19, 18, 17, 23, 24, 25, 16 37 20, 21, 949, 171
Ambala	Ambala	Dhorala	119	3.09	30 20, 21, 22, 23, 24, 25 32 2, 3, 4, 5 29 21 33 1, 2, 3, 4, 6, 7, 8, 14, 15, 16, 9 34 11, 20, 21, 19, 23, 22 36 2, 3, 194, 195
Ambala	Ambala	Rawalan	171	5.46	4 3, 4, 6, 7, 8, 14, 15, 16 3 11, 19, 20, 21, 22, 23 8 2, 3, 4, 6, 7, 8, 9, 14, 15, 16 9 11, 20, 19, 21, 22, 23 10 11, 20, 19, 21, 22, 23 18 2, 3, 4, 6, 7, 8, 14, 15, 16 19 11, 20, 38, 48, 44

District	Tehsil	Village	Hadbast No.	Area in Acres	Locality
					Rectangle Nos. Field Nos.
Ambala	Ambala	Anandpur Jalbera	121	2.76	67 11, 20, 19, 21, 22 78 2, 8, 9, 12, 13, 18, 17, 23, 24 81 3, 4, 7, 6, 14, 15, 16, 17, 25, 442, 443, 434, 433, 435
Ambala	Ambala	Dhorali	169	3.55	10 25 9 21 12 5, 6 13 1, 10, 11, 12, 19, 20, 21, 22 22 2, 3, 8, 9, 13, 17, 18, 23, 24 25 3, 4, 6, 7, 14, 15, 16, 184
Ambala	Ambala	Yaqubpur	168	1.77	5 14, 15, 16, 17, 25 7 5, 6, 15, 16, 25 8 1, 11, 10, 20, 21 13 1, 19
Ambala	Ambala	Mirzapur	167	2.70	4 1, 10, 9, 12, 11, 19, 20, 21, 22 7 1, 2, 9, 12, 18, 19, 22, 23 10 2, 3 12 21

**No. 1161/1-L/NGL.**—Whereas the declaration under section 6 of the Land Acquisition Act, 1894, in respect of the land specified below has been made and published in **Haryana Government Gazette**,—*vide* Notification number 1160/1-L/NGL, dated 20th January, 1977.

Now, therefore, in exercise of the powers under section 7 of the Land Acquisition Act, 1894, the Governor of Haryana hereby directs the Land Acquisition Collector, Public Works Department, Irrigation Branch, Ambala City to take order for the acquisition of the said land.

#### SPECIFICATIONS

District	Tehsil	Village	Hadbast No.	Area in Acres	Locality
					A strip of land measuring 24,114.20 feet in length and varying in widths lying generally in the direction from west-north to east-south as demarcated at site and shown on the Index Plan falling in field number as per detailed below.
					Rectangle Nos. Field Nos.
Ambala	Ambala	Dhurkra	118	6.24	35 20, 21, 22
				50	1, 2, 3, 8, 9, 13, 14, 7, 15, 16, 17, 25
				49	20, 21, 22
				55	1, 2, 3, 7, 8, 9, 13, 14, 15, 16, 17, 25
				56	20, 21, 22



District	Tehsil	Village	Area in acres	Hadbast No.	Locality	
					Rectangle No.	Field Nos.
Ambala	Ambala	Dhorali— <i>concl</i>	169— <i>concl</i>	3.55— <i>concl</i>	13	1, 10, 11, 12, 19, 20, 21, 22
					22	2, 3, 8, 9, 13, 17, 18, 23, 24
					25	3, 4, 6, 7, 14, 15, 16, 184
Ambala	Ambala	Yaqubpur	168	1.77	5	14, 15, 16, 17, 25
					7	5, 6, 15, 16, 25
					8	1, 11, 10, 20, 21
					13	1, 19
Ambala	Ambala	Mirzapur	167	2.70	4	1, 10, 9, 12, 11, 19, 20, 21, 22
					7	1, 2, 9, 12, 18, 19, 22, 23
					10	2, 3
					2	21

No. 1162/1-L/NGL.—Whereas it appears to the Governor of Haryana that land specified below is needed by the Government at public expenses, for a public purpose, namely, for the land proposed to be acquired for the construction of Bhanokheri-Minor from R.D. 0.000 K.M. to R. D. 7.230 K.M. Off Take R. D. 7.780 K.M. of Kanwala Distributary in village Balana, Bhanokheri and Lakhnour-Sahib in Tehsil Ambala, District Ambala, it is hereby notified that the land in the locality specified below is to be acquired for the above purpose.

This notification is made under the provision of section 4 of the Land Acquisition Act, 1894 for the information of all to whom it may concern.

In exercise of the powers conferred by the aforesaid section, the Governor of Haryana hereby authorises the officers of Irrigation Department for the time being engaged in the undertaking alongwith their servants, workmen, etc., to enter upon and survey land in the locality and do all other acts required or permitted by that section.

Further, whereas the Governor of Haryana is satisfied that the land is required for an irrigation channel which is of very urgent importance within the meaning of clause (c) of sub-section (2) of section 17 of the said Act, and whereas the Governor of Haryana is of the opinion that the provision of sub-section (2) of the said section are thus applicable, it is hereby directed under sub-section (4) of section 17 of the said Act that the provision of section 5-A of the said Act shall not apply in regard to this acquisition.

#### SPECIFICATION

District	Tehsil	Village	Area in Acres	Hadbast No.	Locality
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A strip of land measuring 23720.47 Feet in length and varying in width lying generally in the direction from west-north to east-south as demarcated at site and shown on the Index Plan falling in field Nos. as per detailed given on next page.

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District	Tehsil	Village	Area in Acres	Hadbast No.	Locality
				Rectangle Nos.	Field Nos.
Ambala	Ambala	Balana	9.50	173	45, 9, 10, 12, 13, 18, 19, 23, 24 52, 3, 4, 5, 6, 7, 16, 15 53, 10, 11, 19, 20, 21, 22, 23 72, 2, 3, 7, 8, 13, 14, 17, 16, 25, 26, 9 71, 21 81, 5 82, 1, 10, 9, 12, 13, 17, 18, 23, 24, 25, 2, 8 98, 4, 5, 6, 15 97, 11, 12, 19, 20, 22, 23, 10 109, 2, 3, 4, 7, 8, 14, 15, 16, 17, 25, 26 110, 20, 21 114, 1, 2, 8, 9, 10, 12, 13, 14, 16, 17, 18, 24, 25 113, 21 126, 5 127, 1, 10 940, 174, 164, 264, 179, 968, 956, 178, 263, 962
Ambala	Ambala	Bhanokheri	10.45	180	38, 39, 40, 52, 43, 42, 44, 45, 46, 47 1432, 1419, 1420, 1417, 1416, 1405, 1406, 1407, 1401, 1400, 1391, 1392, 1399, 1393, 1418, 1382, 1381, 1379, 1378, 1365, 1460, 1459, 1363, 1334, 1352, 1353, 1355, 1356, 1357, 1364, 1347, 1335, 1336, 1337, 1257, 1258, 1259, 1251, 1252, 1253, 1240, 1239, 1238, 1237, 1236, 1222, 1534, 1623, 1624, 1625, 1626, 1621, 1627, 1776, 1775, 1774, 1778, 1773, 1772, 1765, 1767, 1766, 1761, 1760, 1757, 1758, 1748, 1747, 1741, 1746, 1745, 1759, 1801, 2188, 2074, 2189, 2190, 2191, 2203, 2202, 2201, 2209, 2210, 2211, 2220, 2323, 2221, 2219, 2222, 2223, 2230, 2229, 2228, 2234, 2235, 2236, 2249, 2248, 2247, 2238, 2240, 2239, 2241, 2242, 2243, 1447, 1458, 1742

District	Tehsil	Village	Area in acres	Hadbast No.	Locality	
					Rectangle Nos.	File No.
Ambala		Lakhnour-Sahib		6.61	183	9, 12, 13, 18, 19, 23, 24, 17
					21	3, 4, 5, 6, 7, 14, 15, 16
					20	11, 20, 21, 22, 19
					23	1, 2, 3, 7, 8, 9, 13, 14, 16, 17, 18, 24, 25
					30	5 & 6
					29	1, 10, 11, 12, 19, 18, 20, 22, 23, 9
					35	3, 4, 6, 7, 8, 14, 15, 16, 25
					36	11, 20, 21, 51, 78, 81

No 1163/1-L/NGL—Whereas the Governor of Haryana is satisfied that land specified below is needed urgently by the Government, at public expenses, namely, for the Land Proposed to be Acquired for the Construction of Bhanukheri Minor from R.D. 0.000 K.M. to R.D. 7.230 K.M. off-take R.D. 7.780 K.M. of Kanwala Distributary in villages Balana, Bhanokheri and Lakhnour Sahib in tehsil Ambala district Ambala for which notification has been issued under sub-section (4) of section 17 read with clause(c) of sub-section (2) of section 17 of the said Act and published,—*vide* Haryana Government Notification No. 1162/1-L/NGL, dated 20th January, 1977, in Haryana Government Gazette, Part I, it is hereby declared that the land described in the specification below is required urgently for the above purpose.

The declaration is made under the provision of section 6 of the Land Acquisition Act, 1894 for the information of whom it may concern.

The plans of the land may be inspected in the office of the Land Acquisition Collector, Public Works Department, Irrigation and Power, Ambala and the Executive Engineer, Sutlej-Yamuna Link, Division No. 1, Model Town, Ambala-3.

#### SPECIFICATION

District	Tehsil	Village	Area in acres	Hadbast No.	Locality
A STRIP OF LAND MEASURING 23,720.47 FEET IN LENGTH AND VARYING IN WIDTH LYING GENERALLY IN THE DIRECTION FROM WEST-NORTH TO EAST-SOUTH AS DEMARCATED AT SITE AND SHOWN ON THE INDEX PLAN FALLING IN FIELD NOS. AS PER DETAILED BELOW :—					
Ambala	Ambala	Balana	9.50	173	Rectangle Nos.
					Field Nos.
					45 9, 10, 12, 13, 18, 19, 23, 24
					52 3, 4, 5, 6, 7, 16, 15

District	Tehsil	Village	Area in acres	Hadbast No.	Locality	
					Rectangle Nos.	Field Nos.
Ambala - contd	Ambala— contd	Balana— concl'd	9.50— concl'd	173— concl'd	53 72 71 81 82 98 97 109 110 114 113 126 127	10, 11, 19, 20, 21, 22, 23, 2, 3, 7, 8, 13, 14, 17, 16, 25, 26, 9 21 5 1, 10, 9, 12, 13, 17, 18, 23, 24, 25, 2, 8 4, 5, 6, 15 11, 12, 19, 20, 22, 23 10 2, 3, 4, 7, 8, 14, 15, 16, 17, 25, 26 20, 21 1, 2, 8, 9, 10, 12, 13, 14, 16, 17, 18, 24, 25 21 5 1, 10 940, 174, 164, 264, 179, 968, 956, 178, 263, 962
Ambala ..	Ambala ..	Bhanokheri	10.45	180	38, 39, 40, 52, 43, 42, 44, 45, 46, 47 1432, 1419, 1420, 1417, 1416, 1415, 1406, 1407, 1401, 1400, 1391, 1392, 1399, 1393, 1418, 1382, 1381, 1379, 1378, 1365, 1460, 1459, 1363, 1334, 1352, 1353, 1355, 1356, 1357, 1364 1347, 1335, 1336, 1337, 1257, 1258, 1259, 1251, 1252, 1253, 1240, 1239, 1238, 1237, 1236, 1222, 1534, 1623, 1624, 1625, 1626, 1621, 1627, 1776, 1775, 1774, 1778, 1773, 1772, 1765, 1767, 1766, 1761, 1760, 1757, 1758, 1748, 1747, 1741, 1746, 1745, 1759, 1801, 2188, 2074, 2189, 2190, 2191, 2203, 2202, 2201, 2209, 2210, 2211, 2220, 2323, 2221, 2219, 2222, 2223, 2230, 2229, 2228, 2234, 2235, 2236, 2249, 2248, 2247, 2238, 2240, 2239, 2241, 2242, 2243, 1447, 1458, 1742,	
Ambala ..	Ambala ..	Lakhnour Sahib	6.61	183	14 21 20 23 30 29 35 36	9, 12, 13, 18, 19, 23, 24, 17 3, 4, 5, 6, 7, 14, 15, 16 11, 20, 21, 22, 19 1, 2, 3, 7, 8, 9, 13, 14, 16, 17, 18, 24, 25 5 and 6 1, 10, 11, 12, 19, 18, 20, 22, 23, 9 3, 4, 6, 7, 8, 14, 15, 16, 25 11, 20, 21, 51, 78, 81

## Order

The 20th January, 1977

No. 1164/1-L/NGL.—Whereas the declaration under section 6 of the Land Acquisition Act, 1894, in respect of the Land specified below has been made and published in *Haryana Government Gazette*,—*vide* Notification No. 1163/1-L/NGL, dated 20th January, 1977.

Now, therefore, in exercise of the powers under section 7 of the Land Acquisition Act, 1894, the Governor of Haryana hereby directs the Land Acquisition Collector, Public Works Department, Irrigation and Power, Ambala City to take order for the acquisition of the said land :—

## SPECIFICATIONS

District	Tehsil	Village	Area in acres	Hadbast No.	Locality
1	2	3	4	5	6
					A STRIP OF LAND MEASURING 23,720.47 FEET IN LENGTH AND VARYING IN WIDTH LYING GENERALLY IN THE DIRECTION FROM WEST NORTH TO EAST SOUTH AS DEMARCATED AT SITE AND SHOWN ON THE INDEX PLAN FALLING IN FIELD NOS. AS PER DETAILED BELOW :—

		Rectangle Nos.	Field Nos.
Ambala	Ambala	9.50	173
	Balana		
			45 9, 10, 12, 13, 18, 19, 23, 24
			52 3, 4, 5, 6, 7, 16, 15,
			53 10, 11, 19, 20, 21, 22, 23
			72 2, 3, 7, 8, 13, 14, 17, 16, 25, 26,
			9
			71 21
			81 5
			82 1, 10, 9, 12, 13, 17, 18, 23, 24,
			25, 2, 8
			98 4, 5, 6, 15
			97 11, 12, 19, 20, 22, 23, 10
			109 2, 3, 4, 7, 8, 14, 15, 16, 17, 25,
			26
			110 20, 21
			114 1, 2, 8, 9, 10, 12, 13, 14, 16, 17,
			18, 24, 25
			113 21
			126 5
			127 1, 10
			940, 174, 164, 264, 179, 968,
			956, 178, 263, 962
Am bala	Ambala	10.45	180
	Bhanokheri		
			38, 39, 40, 52, 43, 42, 44, 45,
			46, 47
			1432, 1419, 1420, 1417, 1416,
			1405, 1406, 1407, 1401, 1400,
			1391, 1392, 1399, 1393, 1418,
			1382, 1381, 1379, 1378, 1365,
			1460, 1459, 1363, 1334, 1352,
			1353, 1355, 1356, 1357, 1364,

1	2	3	4	5	6		
					Rectangle Nos.		
Ambala	..	Ambala	..	Bhanokheri— <i>concl'd</i>	10.45— <i>concl'd</i> 180— <i>concl'd</i>	1347, 1335, 1336, 1337, 1257, 1258, 1259, 1251, 1252, 1253, 1240, 1239, 1238, 1237, 1236, 1222, 1534, 1623, 1624, 1625, 1626, 1621, 1627, 1776, 1775, 1774, 1778, 1773, 1772, 1765, 1767, 1766, 1761, 1760, 1757, 1758, 1748, 1747, 1741, 1746, 1745, 1759, 1801, 2188, 2074, 2189, 2190, 2191, 2203, 2202, 2201, 2209, 2210, 2211, 2220, 2323, 2221, 2219, 2222, 2223, 2230, 2229, 2228, 2234, 2235, 2236, 2249, 2248, 2247, 2238, 2240, 2239, 2241, 2242, 2243, 1447, 1458, 1742	
Ambala	..	Ambala	..	Lakhnour Sahib	6.61	183	14 9, 12, 13, 18, 19, 23, 24, 17 21 3, 4, 5, 6, 7, 14, 15, 16, 20 11, 20, 21, 22, 19 23 1, 2, 3, 7, 8, 9, 13, 14, 16, 17, 18, 24, 25 30 5 and 6 29 1, 10, 11, 12, 19, 18, 20, 22, 23, 9 35 3, 4, 6, 7, 8, 14, 15, 16, 25 36 11, 20, 21, 51, 78, 81

S. D. KALRA,

Superintending Engineer,  
Sutlej Yamuna Link Circle No. 1,  
Ambala-3.

## LABOUR DEPARTMENT

The 4th January, 1977

No. 12995-4Lab-76/416.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workman and the Management of M/s K. G. Khosla & Co. (P) Ltd., Faridabad.

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT,  
HARYANA, ROHTAK

Reference No. 194 of 1971

between

SHRI NATH RAM GAUTAM, WORKMAN AND THE MANAGEMENT OF M/S K. G. KHOSLA & CO. (P) LTD., FARIDABAD

## AWARD

By order No. ID/FD/279 G/15046-50, dated 21st May, 1970 of the Governor of Haryana, the following dispute between the management of M/s K. G. Khosla & Co. (P) Ltd., Faridabad and its workman Shri Nath Ram Gautam, was referred to this Court for adjudication, in exercise of the powers conferred by clause (c) of sub-section (I) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri Nath Ram Gautam was justified and in order? If not, to what relief is he entitled?

The parties put in their appearance in this court in response to the usual notice of reference sent to them and filed their pleadings.

The admitted facts of the case are that the workman was appointed by the management as an Accounts Clerk with effect from 2nd November, 1959,—*vide* appointment letter Exhibit W. 1 as per terms and conditions stated there-in. He was transferred by the management to their Calcutta branch,—*vide* their order, dated 12th November, 1969 copy Exhibit M.W-4/3 received by him on 13th November, 1969 with a direction that he shall be paid an extra allowance of Rs 50 P. M. from the date of his joining duties at Calcutta. The workman made representations against his transfer to Calcutta. These representations were rejected and the time of his reporting for duty at Calcutta was extended till 8th December, 1969,—*vide* order, dated 1st December, 1969, Exhibit MW-4/7. The workman did not comply with this order with the result that the management ordered removal of his name from the rolls of their employees with effect from 13th November, 1969 the day following the last day he attended his duty,—*vide* letter, dated 12th January, 1970 Exhibit WW-2/1.

The workman raised a demand on the management that the order of his transfer to Calcutta and the removal of his name from their rolls were unjustified and he was entitled to reinstatement with continuity of service and full back wages. The demand being not accepted resulted in a reference of the dispute stated above.

The management,—*vide* written statement filed by them pleaded there was no Industrial Dispute between the parties and the reference made to this court was bad in law and that section 2 (a) of the Industrial Disputes Act, hereinafter referred to of the Act, under which the reference has been made was ultra vires of the Constitution of India and the reference was illegal on this ground as well. On facts, they stated, that the order of the transfer of the workman to Calcutta and the order of his removal from service as a result of his failure to comply with the order of his transfer were both legal and justified under their Certified Standing Orders. They averred that the transfer of the workman from one place to another was a condition of service from the very beginning and that he had been transferred from Delhi to Faridabad with effect from 14th November, 1966 and that he had actually accepted this transfer and continued to discharge his duties at Faridabad from 14th November, 1966 to 12th November, 1969. The management further pleaded that the workman had crossed the age of superannuation of 60 years and was not entitled to reinstatement on this ground as well and he abandoned his job voluntarily and his services were never terminated.

The workman,—*vide* rejoinder filed by him controverted the pleas of the management and stated that the orders of his transfer and removal from service were made with a view to victimise him for his trade union activities, mala fide and that the order of his transfer being illegal he was entitled to ignore it and that he was entitled to reinstatement. The management denied these assertions,—*vide* reply of the rejoinder filed by them.

The following issues were thus framed on pleas of the parties,—*vide* order, dated 24th February, 1972 :—

1. Whether the reference is invalid for the reasons stated in the written statement?
2. Whether the termination of services of Shri Nath Ram Gautam was justified and in order? If not, to what relief is he entitled?

**Issue No. 1—**

Issue No. 1 was decided against the management by my learned predecessor Shri O. P. Sharma,—*vide* his order, 14th March, 1973 and as such does not now require fresh decision.

**Issue No. 2—**

This is an important issue in the case. In view of the admitted facts that the workman did not comply with the order of his transfer to Calcutta referred to above despite being asked to do so and given extension of time for that purpose time and again the only important question requiring determination would be as to whether the order of his transfer from Delhi Head Office to Calcutta were justified and legal. In case of answer of this question in the affirmative the workman will admittedly have no claim. It is conceded on both sides that no term of condition in respect of the right of the management to transfer the workman from Head Office in Delhi to any of their branches outside Delhi is incorporated in his appointment letter Exhibit W-1. and there is likewise no condition provided in the letter barring them from doing so. The contention of Shri R. N. Rai authorised representative of the workman that term 3 of the letter of appointment that the latter shall be allowed leave as per rules laid down in the Delhi Shops and Commercial Establishment Rules, 1954 led to a conclusion of such a bar, have no merit and is hereby rejected as untenable.

In absence of such an express term or condition of service the management shall be deemed and presumed to have such powers of transfer,—*vide* authorities reported 1963 ILLJ 745 between New India Flour Mills and another and Sixth Industrial Tribunal, West Bengal and others (Calcutta High Court)

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and 1960 II LLJ 125 between Workmen of Philips (India) Ltd. and Philips (India) Ltd. unless the order of the transfer of the workman proved to be mala fide, in which case the transfer order shall have to be held as illegal not entitled to be acted upon.

This brings me to the decision of the important question as to whether the workman in the instant case has been able to establish the order of his transfer as mala fide. He did not give the particulars of the mala fide conduct of the management in the notice of demand Exhibit WW-1/1 and remained contended by saying that the order of his removal from service was illegal and mala fide. He did not file any claim statement. It was for the first time that he stated in the rejoinder that he took an active part in trade union activities and became its treasurer and that he appeared as a witness against the management in an Industrial Dispute in January 1966 and that these activities annoyed the latter. He admitted that immediately thereafter the accounts section of the Head Office was shifted from Delhi to Faridabad and that he continued to work at Faridabad thereafter. He is thus proved to have accepted his transfer from Delhi to Faridabad by his own admission.

He admitted that he received increments in the year 1964, 1965 and 1966 after he had become a treasurer of union in the year 1973. He expressed his want of knowledge about the result of the reference of an Industrial Dispute made to the Industrial Tribunal, Delhi in the year 1963. He admitted that he did not raise any objection regarding his transfer from Delhi to Faridabad. All these facts well negative the plea of mala fide of the management in transferring him from Delhi to Calcutta. In case there had been any grudge against the workman, in the mind of the officers concerned of the management, they could not have granted him increments in the year 1964, 1965 and 1966. The management admittedly did not take any action against him from January, 1966 when he is alleged to have appeared as a witness against them till 12th November, 1969 the date of the order of his transfer and this circumstance further rebuts the theory that the order of his transfer was mala fide.

Merely because Shri G. L. Tondon, office Superintendent a witness examined by the management could not prove that the letter MW-3/1 to MW 3/4 exchanged between Calcutta and Delhi office were posted does not render these documents forged and fabricated. The circumstance of absence of to any evidence that no substitute was sent to Calcutta on refusal of Shri Gautam to comply with the order of his transfer again does not tend to prove mala fides of the management.

At any rate there is not an iota of tangible cogent evidence on record for workman in respect of the mala fides of the management and his bare oral statement rebutted by his own admission in the manner stated above, made by him generally that the management acted mala fide, can not be relied upon. I have thus no hesitation in holding that the workman has miserably failed to prove the order of his transfer as motivated or mala fide.

I, however, propose to ignore the documents MW-4/2 and MW-4/10 showing transfer of other workman from one place to another from time to time brought on record by Shri B. N. Kapur MW-4 Chief Executive of the Company on 12th April, 1974 at a belated stage on the ground that these were not relied upon and produce at the proper stage.

The contention of Shri R. N. Rai learned authorised representative for the workman that the letter dated 12th January, 1970 Exhibit MW-2/1 of removal of the name of the workman from the rolls of the employees with effect from 13th November, 1969 being retrospective in nature was bad in law, does not seem to be supported, — *vide* 1962 I LLJ 471 an authority of Calcutta High Court relied on by him, in as much as the letter Exhibit WW-2/1 is in fact not a letter of dismissal, but a letter in simplicitor informing the workman of removal of his name from 13th November, 1969 as a result of his non-compliance of the order of his transfer, dated, 12th November, 1969 and his absence from duty from that date. The authority referred to above is thus not applicable to the facts of the case. This Contention of Shri R. N. Rai has also no merit and is hereby rejected as untenable.

I however agree with Shri R. N. Rai that Certified Standing Orders of the management copy Exhibit M-1, providing for entitlement of the management to transfer their employees at their discretion from one establishment to another and from one post to another with the liability of the workman to accept such transfer, being in respect of an item not falling under the schedule appended to Industrial Employment (Standing Orders) Act 1946), are not valid and binding on the workman. This view of the law is found supported from Supreme Court Labour Judgement 1968-1970 page 623 between workman of Lakeri Cement Works Ltd. and Associated Cement Companies Ltd.

The result is that the termination of services of Shri Nath Ram Gautam, the workman concerned was justified and in order and he is not entitled to any relief. I thus answer the reference while returning the Award in these terms.

MOHAN LAL JAIN,

Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

Dated 17th December, 1976.

No. 2857, dated 20th December, 1976

Copy forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

MOHAN LAL JAIN,

Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

No. 12996-4Lab-76/420.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workman and the Management of M/s Escorts Ltd. Plant-II, Faridabad.

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT,  
HARYANA, ROHTAK

Reference No. 134 of 1970

*between*

SHRI PURAN SINGH, WORKMAN AND THE MANAGEMENT OF M/S ESCORTS LTD., PLANT-II, FARIDABAD

#### AWARD

By order No. 6091-6-Lab-70/22387, dated 31st July, 1970 the Governor of Haryana, the following dispute between the management of M/s Escorts Ltd., Plant-II Faridabad and its workman Shri Puran Singh, was referred to this court, for adjudication, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the discharge of services of Shri Puran Singh was justified and in order? If not, to what relief is he entitled?

The parties put in their appearance in this court in response to the usual notice of reference sent to them and filed their pleadings.

The admitted facts of the case are that the workman was served with the charge sheet dated 31st October, 1966 which reads as under :—

“PER/JP

October, 31, 1966

Mr. Puran Singh,

H. No. 10/117, N. J. T.

Faridabad.

Following are the charges against you :

That the workers of this Plant resorted to strike on 10th October, 1966 on the issue of bonus. To settle this issue the management on 26th October, 1966 reached an amicable settlement with the workers with the result of which the workers resumed their regular duties with effect from 27th October, 1966. But the settlement reached was not favoured by you and you started instigating the workers that the settlement was not at all satisfactory and they should not go in the plant for work. On 29th October, 1966 at about 8-00 a. m. you along with others namely Darshan Singh, Ajit Singh, M. S. Gulati and Mr. Gian Prakash outsider union leaders and M/s. Gurdeep Singh, Nelson Niketan, Abdul Rehman, Harbhajan Singh, Bhoodeo Singh, Thandi Ram, Bakhshish Singh, Ram Adhar, Hari Krishan, Rajesh, Shiv Singh, Dhallan Singh and Ayodhya workers of the factory led a mob of about 150 workers which was constituted of workers from various neighbouring factories. On reaching near the Gedore crossing M/s. Darshan Singh and Ajit Singh started raising the following slogans :

“Mazdoor ittehad, zindabad”

“Jab tak mange nahin manoge,

tab tak chakka jaam rahiye”

In the mean while M/s. Ram Rattan, Ram Parkash and Avnash Kumar were coming towards the factory side for their regular duty. M/s Ajit Singh and Darshan Singh on seeing them proceeding towards the factory ridiculed them and said "Tum teeno gaddar ho, aur malkan se rupyya lekar bik gaye ho. Ham tumhen factory men hane nahin denge. Agar jane kee koshish karoge to jaan se bhee maar denge". But they said that they will definitely go to the factory. On the instigation of Ajit Singh and Darshan Singh you stopped Messrs. Ram Rattan, Ram Parkash and Avnash Kumar and started beating them with fists, blows and slaps. When this was happening M/s. Girraj Singh and Ajai Singh reached at the spot and they interfered. It was with great difficulty that they saved the above three persons. Had they not come to escape of the above workers in time, you might have killed them. You also remarked "Ab to voh bach gae hain factory se baher aane par unko zinda nahin chhorenge."

This act of yours reveals that you used violence with the intention of stop the willing workers to go for work. The aforesaid act constitutes gross misconduct warranting your dismissal from the services of the Company. Please explain as to why strict disciplinary action should not be taken against you for the aforesaid act of misconduct on your part. Your explanation should reach the undersigned within 24 hours of receipt of this letter failing which it shall be presumed that you are guilty of the above mentioned misconduct and the management shall avail of it's discretion in taking any adequate punitive action deemed necessary against you.

(Sd.) . . .

PERSONNEL DEPARTMENT."

The workman denied the correctness of the charges and on an enquiry held against him by one Shri R. N. Rai, Assistant Personnel Manager, in compliance with the order dated 5th November, 1966 of the Personnel Department, he submitted his report holding that the workman concerned and some other persons stopped Ram Parkash, Ram Rattan, Avnash Kumar and Shri Gurdip Singh from going in the factory to attend their duty on 29th October, 1966 and that he himself struck work on 27th October, 1966 and subsequently for a few days thereafter. He held the discharge of his General Manager.—*vide* his order dated 9th February, 1967 on consideration of the findings of the Enquiry Officer, discharged Shri Puran Singh from service for gross misconduct under the Model Standing Orders applicable to him. The management,—*vide* application No. 6 of 1967 sought approval of their action of dismissal of the workman pending reference No. 74 of 1966 under section 33-2(b) of the Industrial Disputes Act, hereinafter referred to the Act. Shri Hans Raj Gupta the then Presiding Officer, Labour Court Haryana accorded approval of the action of the management dismissing the workman concerned,—*vide* his order dated 14th April, 1967, while relying on the report of the Enquiry Officer and holding the enquiry as being held according to principles of natural justice.

The workman alleged,—*vide* claim statement filed by him that the charge sheet served on him and the enquiry held against him and the order of his dismissal were all by a person having no authority and jurisdiction to do so. He further alleged that the findings of the Enquiry Officer were perverse and his services had been terminated by the management *mala fide* on account of his trade union activity in order to victimise him.

The management,—*vide* written statement filed by them pleaded that the reference made to this court without the consent of the parties, was bad in law and unmaintainable under section 10, sub-section (2) of the Act and dispute in question having already been referred to Shri P. N. Thukral, Presiding Officer, Labour Court, could not be referred to another Labour Court, and that whereas the Government had sought to refer the collective dispute, claim statement had been filed by Shri Puran Singh workman alone through his authorised representative Shri Darshan Singh and was illegal. They further stated that the dispute had not been espoused by a substantial number of workmen and the reference was as such unmaintainable and bad in law. On merits they stated the charges framed against the workman, the enquiry held against him and the order of his discharge from service were correct and justified in all respects and had been framed and made by a person duly authorised to do so. They finally averred that the report of the Enquiry Officer was correct and fully justified on the evidence led before him.

The following issues thus framed by Shri P. N. Thukral,—*vide* his order dated 23rd April, 1971 on pleas of the parties.

1. Whether the order of reference is not valid for the reasons given in the preliminary objections.
2. Whether the discharge of Shri Puran Singh was justified and in order if not to what relief he is entitled.

The parties relied on the evidence led by them during trial of reference No. 68 of 1967 of the Industrial Disputes stated above referred,—*vide* reference No. 134 of 1970 on a finding of the Hon'ble the High Court that the earlier reference was made to an officer not duly appointed.

I have now heard learned authorised representatives of the parties and carefully gone through the written arguments submitted by them. I decided the issues as under :—

*Issue No. 1 :—*

The pleas covered by this issue being not pressed by the management, the same is decided against them.

*Issue No. 2 :—*

Learned authorised representatives for the workman contended at the outset, that the workman was substantially and actually charged with the misconduct of beating Sarvshri Ram Rattan, Ram Parkash and Avinash Kumar and thus using violence with the intention to stop the willing worker to go for work and this charge having remained admittedly unestablished, —*vide* report of the Enquiry Officer Exhibit M-2, the order of his discharge from service was manifestly illegal and liable to be set aside. I have considered this aspect of the question fully and carefully gone through the charge sheet reproduced above. I find that the workman concerned was not only charged for his having beaten Sarvshri Ram Rattan, Ram Parkash and Avinash Kumar with fists blows and slaps not established against him, but also for having struck work and stopped and obstructed the aforesaid persons from attending their duty held established against him, as would appear from the charge-sheet fully reproduced above, with particular reference to the words underlined therein. I thus do not feel inclined to accept the arguments that the workman was charged only for having beaten some of his workmen and using violence and not for having himself struck work and stopped his coworkers from attending their duties. I hold this contention of Shri Darshan Singh learned authorised representative of the workman, as untenable. The argument that striking work or inciting others to strike work constituting a misconduct under Model Standing Order No. 26 (1) (K) did not include such Acts after the settlement during the strike has also no merit particularly when most of the workmen had joined their duties under the settlement and Shri Puran Singh struck work and asked others to strike work after the settlement and subsequent to their joining duties according to the management and the report of the Enquiry Officer.

The charge-sheet dated 31st October, 1966 was admittedly issued under the signatures of Shri J. P. Gupta the then Labour Officer and incharge Personnel Department who appointed Shri R. N. Rai as an Enquiry Officer. He examined as M-2 deposed that he was authorised by General Manager, —*vide* order dated 30th December, 1965, copy Exhibit M-6, to hold enquiry and to appoint Enquiry Officer and that he appointed Shri R. N. Rai as an Enquiry Officer to hold the enquiry against Shri Puran Singh. It is thus necessary to state *in extenso* the office order dated 30th December, 1965 copy Exhibit M-6 as referred to above as under :—

“PER/JP

December, 30, 1965.

#### OFFICE ORDER

All employees are hereby notified that under the directions of the Labour Department Government of Punjab, Chandigarh, our establishment is required to have its own certified Standing Orders. The draft of the proposed Standing Orders is being prepared. In the meantime the model Standing Orders under the Industrial Employment (Standing Orders) Punjab Rules, 1949 will become applicable to our establishment and will remain in force till the certification of our own Standing Orders.

For the observance of Model Standing Orders the following officer will exercise powers of managers :—

Mr. B. S. Chauhan, Manager Procurement (Factory Manager);

Mr. H. K. Madan, Assistant Personnel Officer.

Mr. J. P. Gupta, Labour Officer.

Powers to issue charge-sheets, suspension orders, instituting of enquiries and other disciplinary actions will normally be exercised by Mr. H. K. Madan and Mr. J. P. Gupta. The above office order comes into force with immediate effect.

(S.I.) S. D. S. MONGIA,

General Manager.”

The document Exhibit M-6 was admitted to have been produced and relied upon by the management during enquiry proceedings. The contention of Shri Darshan Singh authorised representative for the workman that Shri S. Mongia General Manager could not legally delegate his powers of initiating enquiry and issuing charge sheet in favour of Shri J. P. Gupta has no merit *vide* AIR

1956 Supreme Court 285 Paradyat Kumar Bose *Vs.* Chief Justice of Calcutta High Court, and 1957 I LLJ 494 A. R. S. Choudhary *Vs.* Union of India where in it was held that the punishing authority could delegate the powers of holding an enquiry in favour of another person. It was held in AIR 1968 Delhi page 26 A. S. Sethi *Vs.* Union of India, that the punishing authority could appoint any person to collect material and if the Secretary instead of nominating an officer to hold an enquiry, tells some one else to entrust the job of collection of material to a person selected by him no exception can be taken. Their lordships observed that the heart of the problem was the hearing of the parties concerned and reaching a conclusion on the evidence taken and whether the deciding authority hears a party audibly addressing him or hears him only through the medium of written statement and the evidence recorded can not but be a matter of procedure.

The copy Exhibit M. W 5/22 of the general power of attorney executed by the Company through its Director in favour of Shri S. D. S. Mongia, authorised him to discharge a temporary or permanent employee. Shri S. D. S. Mongia.—*vide* office order Exhibit M-6 reproduced above authorised Shri J. P. Gupta to issue, charge sheets and institute enquiries. It would thus appear that there was nothing wrong in Shri J. P. Gupta framing the charge-sheet and asking Shri R. N. Rai to hold an enquiry, so long as the punishment was awarded by the competent authority on consideration on the material collected by the Enquiry Officer. I thus in view of the facts and law referred to above hold that Shri J. P. Gupta was fully competent to frame a charge sheet and initiate an enquiry through Shri R. N. Rai.

Shri Darshan Singh authorised representative for the workman concerned stressed with reference to the Certified Standing Orders of M/s. Escorts Ltd. copy Exhibit W-1, that the workman concerned was liable to be dismissed on proof of his guilt of misconduct and that he could not be discharged from service under any provision of the aforesaid Standing Orders. I have given this matter by careful consideration with reference to the authorities reported as 1968 II LLJ 182, 1960/61 (XIX) FZR 41 submitted by the management wherein it was held that the power of dismissal included within it the power of discharge of an employee from service. Even otherwise it is amply proved on record by the evidence of Shri P. N. Puri Deputy Labour Commissioner, Haryana Government, MW-3 Shri S. C. Vohra, Personal Officer of the management and Shri P. C. Aggarwal of the Personnel Department of the management that the Draft Standing Orders submitted by the management of plant II where the workman was in service had not been certified by the Certifying Officer by the time when the workman was discharged from service,—*vide* order dated 9th February, 1967. It is thus obvious that the Model Standing Orders Exhibit C(2) of the Haryana Government were applicable to the workman and his service could be terminated in any form,—*vide* clause 26(2) thereof, on proof of any of the misconducts enumerated in clause 26 including striking of work illegally or inciting others to strike work. Considered from any angle the order of discharge of the workman from service cannot be said to be illegal for the reasons urged by his authorised representative.

Shri Darshan Singh finally argued that the enquiry Exhibit M-1 held by Shri J. P. Gupta was against principles of natural justice and the findings M-2 made by him were perverse liable to be set aside. I have in this connection carefully gone through the record of the enquiry proceedings and the findings of the Enquiry Officer. I find the charge of the workman having himself struck work, admitted by him,—*vide* paragraph 1 of the reply M-4 undisputedly submitted by him before the Enquiry Officer of the charge sheet served on him and the finding of the Enquiry Officer in this connection cannot be said to be perverse. As regards the other charge of his having incited other workmen to strike work, the same is fully borne out and found established from the testimony of Shri S. Rangat Singh M-1, Ram Parkash MW-2, Narain Singh MW-3 Charan Singh MW-4 and Gaj Raj Singh MW-5, examined as eye witness before the Enquiry Officer. I do not find anything on record of enquiry rendering it any way against the principles of natural justice. I on the other hand find the workman was given full opportunity to cross examine the witnesses of the management and to adduce his defence evidence. Striking work illegally or inciting others illegally has been stated as a misconduct,—*vide* clause 26 of these Model Standing Orders. At any rate there is nothing on record justifying a conclusion that the enquiry was not held in accordance with the principles of natural justice and the findings are perverse. I, therefore, reject even this contention of Shri Darshan Singh as untenable.

Having discussed all the pleas taken and the points urged on behalf of the workman, it is obvious that the order of discharge of the workman from service is perfectly justified and he is not entitled to any relief. I accordingly answer the reference while returning the Award in these terms.

MOHAN LAL JAIN,

Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

Dated 17th December, 1976.

No. 2858, dated 20th December, 1976.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

MOHAN LAL JAIN,

Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

The 14th January, 1977

No 317-4Lab-77/1781.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workmen and the Management of M/s. Metal Box Co. of India Ltd., of Faridabad.

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT, HARYANA,  
ROHTAK

Reference No. 214 of 1972

*between*

SHRI RADHEY SHAM AND THE MANAGEMENT OF M/S. METAL BOX CO. OF INDIA LTD.,  
FARIDABAD

AWARD

By order No. ID/FD/72/32442/46, dated 23rd August, 1972 of the Governor of Haryana, the following dispute between the management of M/s. Metal Box Co. of India Ltd., Faridabad and its workman Shri Radhey Sham, was referred to this court, for adjudication, in exercise of the powers conferred by clause (c) of sub-section (1) of the section 10 of the Industrial Disputes Act, 1947 :—

“Whether the dismissal of Shri Radhey Sham was justified and in order ? If not, to what relief is he entitled ?

The parties put in their appearance in this court in response to the usual notices of reference sent to them and filed their pleadings.

The admitted facts of the case are that the workman was served with charge sheet attached as an annexure 'B' to the claim statement reproduced *in extenso* as under :—

ANNEXURE "B"

"THE METAL BOX COMPANY OF INDIA LIMITED

CHARGE-SHEET

1. Tkt. No. 762 Name : Mr. Radhey Sham

Department MANUFACTURING Time Date 31st May, 1971/1st June, 1971.

2. NATURE OF OFFENCE CHARGED ;

The above worker is hereby directed to submit for the undermentioned charge within 48 hours It has been reported by Mr. G.D. Rakheja again "I want to give the details about the incident occurred on 29th May, 1971.

Mr. Radhey Sham, Ticket No. 762, left his work place at 9-10 P.M. Mr. S.S. Singh came to me at about 9-30 P.M. and asked me where Mr. Radhey Sham has gone. I told him that he has gone to take water. Mr. Singh told me as soon as he comes back please inform me. But he did not turn up. At about 10-00 P.M. Mr. Singh sent a slip to me that whether Mr. Radhey Sham has come back or not. At 10-00 P.M. I went out in search of him and found Mr. Radhey Sham sitting in front of Welding Shop. I asked Mr. Radhey Sham to come in. He replied "You go inside and I am following you after smoking one Biri" (Sahab aap under chalo aur main biri pi ke aata hun). Again at 11-00 P.M. Mr. Singh came to me and asked me regarding him. I told him that

he is sitting out side. Then Mr. Singh asked me that you come along with me to call Mr. Radhey Sham. We both went outside and I asked Mr. Radhey Sham why you are away from the work place for the last two hours. He told me "I have completed my job which was assigned to me." Then Mr. Singh told him that even if you have completed your last job assigned to you, you should have gone back to your work place within 10 to 25 mintues for further allocation of work. Then Mr. Singh asked Mr. Radhey Sham "what was the main reason for not going back to your work place even when Mr. Rakheja came personally to call you at 10-00 P.M. This is not good on your part." At this moment he replied, "I did not go to my work place and for that whatever you can do, you do. What more. Maximum Company may turn me out." Then Mr. Singh advised hi that nobody wants to turn any body out but definitely you are expected to maintain discipline when you are inside the factory. At this he replied again, "whatever, I had to say, I have said. Whatever you want to do, do". At this Mr. Singh asked me to put him on the job, I put him on the job at 11-05 P.M. and at 12-00 again he left the department without any information to me and never came back to his work-place even till the end of the shift i.e., 12-30 a.m

This report is submitted to you for necessary action."

This action, if proved, is disorderly and indecent behaviour within the factory premises and is subversive of discipline. It is a misconduct as defined under clauses 20(a)(viii) and 20(a)(xxvii) of the Certified Works Standing Orders applicable to you, which reads as under :

20(l)(viii) : "Drunkenness or riotous or disorderly or indecent behaviour within working hours within the factory premises or while on duty or within the shop or any act subversive of discipline."

20(a)(xxvii) : Gross neglect of work or gross or habitual neglect, loitering idling of was ting time, during working hours of working without permission."

If you do not submit your explanation within 48 hours of the receipt of this charge-sheet or if your explanation is not found satisfactory, an enquiry will be instituted into your conduct of which the time and place will be notified later. Pending your explanation and further proceedings against you, you are hereby suspended from work pending enquiry with immediate effect. You are required to sign the duplicate copy of this charge-sheet in token of having received the same.

Sd/- Shiv Shankar Singh  
(S.S. SINGH),  
Shift Officer.

Sd/- (S. VISWESWARAN),  
Departmental Head.

The workman denied the correctness of the charge framed against him while stating without giving his own version that the management had twisted the story on an enquiry being held against the workman, by Shri A.C. Ghosh, he found the charges fully established,—*vide* his report, Exhibit M-5. The management discharged the workman from service on consideration records of the enquiry, Exhibit M-4 and the report of the Enquiry Officer,—*vide* order, dated 27th October, 1971, Exhibit M-7. The workman served the management with the notice of demand of his reinstatement with full back wages copy Exhibit M-9 which led to this reference.

The workman alledged,—*vide* claim statement, filed by him in conformity with the notice of demand that the charges framed against him were not covered,—*vide* Standing Orders 20(a)(viii) and 20(a)(xxvii). He further stated that he was given no opportunity to adduce his evidence and that the order of his discharge from service was illegal and *mala fide* amounting to unfair labour practice and victimisation, and that at any rate punishment awarded to him was very severe. He averred that the case at worst attracted the provision of section 7(a)b of the Payment of Wages Act.

The management,—*vide* written statement filed by them pleaded that the statement of claim signed by Shri R.N. Rai authorised representative for the workman and not by the later, was illegal and that the reference was bad in law for want of a notice of demand directly on them before it was sent to the Conciliation Officer with a copy simultaneously to them. On merits they denied the allegations of workman that the order of his discharge from service was illegal or that the enquiry suffered from any infirmity and pleaded that the charges were well covered by orders 20(a)(viii) and 20(a)(xxvii) of their Certified Standing Orders.

The following issues were thus framed on pleas of the parties,—*vide* order, dated 18th September, 1973;

1. Whether the demand, the subject-matter of the present reference, was first raised on the management and rejected by it before the taking up the matter with the Conciliation Officer, if not to what effect ?
2. Whether the dismissal of Shri Radhey Shyam was justified and in order ? If not, to what relief is he entitled ?

I have heard learned authorised representatives of the parties with reference to the evidence led by them— I decide the issues as under :—

Issue No. 1—

I for the reasons stated by me in detail in my order, dated 10th October, 1975 in reference entitled Shri S.C. Sethi *versus* Kirloskar Oil Engine, Faridabad, decide this issue in favour of the workman with a finding that it

was no longer necessary for him to raise a demand first on the management before he sent it to the Conciliation Officer with a copy simultaneously to the management.

**Issue No. 2—**

The management examined Shri A.C. Ghosh, the Enquiry Officer MW-1 and Shri Jagdip Singh their Personnel Manager MW-2 and the workman did not adduce any evidence, so much so he did not appear even as his own witness. Shri A.C. Ghosh proved the records of the enquiry, Exhibit M-4 and his findings, Exhibit M-5 as correct while giving out that he held the enquiry according to the principles of natural justice while giving full opportunity to the workman to participate therein and to cross-examine the witness of the management and adduce his defence evidence. Even Shri R.N. Rai authorised representative for the workman had nothing to say against the vires of the enquiry and all that he could urge was in respect of the non-applicability of Standing Orders 20(a)(viii) and 20(a)(xxvii) to the facts of the case. He could not well controvert the contention of the authorised representative of the management that the order of the Enquiry Officer declining permission to the workman to examine two witnesses other than employees of the factory of the management, after he had already closed his case on the ground that their evidence was not relevant, did not render the enquiry vitiated and I fully agree that the Enquiry Officer had full discretion to make such an order and the discretion exercised by him in the circumstances of the case was just and fair.

The only question requiring determination under the circumstances would be as to whether the charges duly held proved against the workman, are covered by the Standing Orders referred to in the charge-sheet reproduced above and the order of the discharge of the workman from service was thus legal and proper or not.

In view of the findings of the fact arrived at by the Enquiry Officer, it can not now be denied that the workman left his place of work at 9-30 P.M. without permission and that on one Shri G.D. Rakheja going to him in front of the Welding Shop in his search at 10-00 P.M. in obedience to the order of Shri S.S. Singh, and asking him to come inside the factory and resume his work, he replied that he was following him. He did not go inside the factory till 11-00 P.M. when he was visited by both Shri G.D. Rakheja and Shri S.S. Singh and was asked the reasons of his absence from the place of his work for two hours continuously. He replied that he had completed his work. On being asked the reasons of his failure for further allocation of work he replied that he did not go to his work place and whatever action they wanted to take were at liberty to take and that at worst they could turn him out. He being put on job at 11-00 P.M. by Mr. G.D. Rakheja again left his place of work at 12-00 without permission or information and did not resume his work till 12-30 A.M. the closing hours of the shift.

Such acts and omissions are obviously subversive of discipline, (tending to overthrow or overturn discipline) constitute idling or wasting of time during working hour and thus fall within item 20-A(viii) and 21(xxvii) of the Certified Standing Orders of the management rendering the workman liable to dismissal from service.

It had however to be conceded by Shri C.M. Lal authorised representative for the management, that with the addition of section 11-A in the Industrial Disputes Act, this Court was empowered, in the exercise of its judicial discretion to reduce the punishment awarded by the management to the workman, in cases referred to it after 15th December, 1971, if the facts and circumstances so warranted.

It would appear from the charges held proved against the workman that the misconduct was not of a serious nature and the workman was proved to have only left his place of duty, during working hour and refuse to attend the same even when asked to do so with a reply that the management could take action under the rules. Such misconduct could not be treated as grave as the misconduct of drunkenness or being riotous and disorderly or gross neglect of work or theft, fraud, etc. The punishment awarded to the workman by the management is thus in my opinion severe and incommensurate with the minor nature of misconduct proved against him and calls for substantial reduction.

I, thus while setting aside the impugned order of termination of service of the workman, made by the management, order his reinstatement with continuity of service without back wages with a direction that the period of his absence from service, from the date of termination of his service till the publication of the date of Award shall be treated as leave without pay.

Dated the 28th December, 1976.

MOHAN LAL JAIN,  
Presiding Officer,  
Labour Court, Haryana,  
Rohtak

No. 18, dated the 4th January, 1977.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under Section 15 of the Industrial Disputes Act, 1947.

MOHAN LAL JAIN,  
Presiding Officer,  
Labour Court, Haryana,  
Rohtak,